

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT CINCINNATI

CARMEN MARIA GAMEZ DEL CID, et al.

Plaintiffs,

vs.

WHITE HOLDINGS TRUCKING, LLC, et  
al.

Defendants.

CASE NO.

JUDGE

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant White Holdings Trucking, LLC (“White Holdings”), by and through undersigned counsel, hereby gives notice of removal of this action from the Common Pleas Court for Hamilton County, Ohio to the United States District Court for the Southern District of Ohio, Western Division at Cincinnati, and in support thereof, states as follows:

**REMOVAL IS TIMELY & CONSENT TO REMOVAL**

1. On February 12, 2020, Plaintiffs Carmen Maria Gamez Del Cid, Horacio Olvera Alvarez, and Jade Jazmin Alvarez (a minor, by and through her parent and natural guardian, Horacio Olvera Alvarez) commenced a civil action against Defendants N.W. White & Company and Jeffery Noel Byrd (“Byrd”) in the Common Pleas Court for Hamilton County, Ohio, under case number A 2000722, which was captioned *Carmen Maria Gamez Del Cid v. N W White & Company, et al.* (the “State Court Action”). A true and accurate copy of the complaint is attached as **Exhibit A**.

2. On April 8, 2020, Plaintiffs filed a notice dismissing N.W. White & Company without prejudice.

3. On May 4, 2020, Plaintiffs filed their first amended complaint, naming White Holdings as a defendant. A true and accurate copy of the first amended complaint is attached as **Exhibit A**.

4. White Holdings was served with the summons and the first amended complaint on August 11, 2020.

5. Therefore, this notice of removal is filed timely within 30 days of White Holdings' receipt of the pleading setting forth Plaintiffs' claims for relief against White Holdings, as required by 28 U.S.C. § 1446(b)(1).

6. Defendant Byrd consents to removal, as required by 28 U.S.C. § 1446(b)(2)(A).

7. Pursuant to 28 U.S.C. § 1446(d), upon filing this notice of removal, White Holdings will file a notice of filing of notice of removal in the Common Pleas Court for Hamilton County, Ohio. A true and accurate copy of the notice of filing of notice of removal is attached as **Exhibit B**.

**COMPLETE DIVERSITY OF CITIZENSHIP EXISTS**

8. Plaintiff Carmen Maria Gamez Del Cid is a citizen of the State of Ohio.

9. Plaintiff Horacio Olvera Alvarez is a citizen of the State of Ohio.

10. Plaintiff Jade Jazmin Alvarez is a citizen of the State of Ohio.

11. Defendant White Holdings is a citizen of the State of South Carolina.

12. Defendant Byrd is a citizen of the State of South Carolina.

13. Since the Plaintiffs and the Defendants are citizens of different states, complete diversity of citizenship exists.

**AMOUNT-IN-CONTROVERSY IS SATISFIED**

14. Plaintiffs allege that Byrd “negligently drove a heavy commercial vehicle ... crashing into a vehicle occupied by Plaintiffs...” (Complaint at ¶ 1).

15. Plaintiffs allege that as a result of the accident, “Plaintiffs sustained permanent injuries to their necks, backs, heads, and other parts of their bodies, causing pain, limitation, loss of enjoyment of life, inability to engage in usual and customary activities, suffering and anxiety, all of which will continue into the indefinite future.” (Complaint at ¶ 2).

16. Paragraph 3 of Plaintiffs’ Complaint alleges that Plaintiff Carmen Maria Gomez Del Cid incurred medical expenses in excess of \$25,700; Plaintiff Horacio Olvera Alvarez incurred medical expenses in excess of \$18,500; and Plaintiff Jade Jazmin Alvarez incurred medical expenses in excess of \$3,400.

17. Plaintiffs expect to incur medical expenses in the future. (Complaint at ¶ 3).

18. Plaintiffs Carmen Maria Gomez Del Cid and Horacio Olvera Alvarez are claiming lost wages. (Complaint at ¶ 4).

19. As long as one of the Plaintiff’s damages exceed \$75,000, exclusive of interest, costs, expenses, and attorney’s fees, the amount in controversy requirement is met and the District Court has jurisdiction over the claims of the rest of the Plaintiffs.

20. If Plaintiff Carmen Maria Gomez Del Cid were to prove all of her damages, her damages are more likely than not to exceed \$75,000, exclusive of interest, costs, expenses, and attorneys’ fees.

21. If Plaintiff Horacio Olvera Alvarez were to prove all of his damages, his damages are more likely than not to exceed \$75,000, exclusive of interest, costs, expenses, and attorneys’ fees.

22. If Plaintiff Jade Jazmin Alvarez were to prove all of her damages, her damages are more likely than not to exceed \$75,000, exclusive of interest, costs, expenses, and attorneys' fees.

23. Therefore, the amount-in-controversy exceeds \$75,000, and the amount-in-controversy requirement is satisfied for removal.

**THIS COURT HAS DIVERSITY JURISDICTION**

24. Based on the above, this Court has original subject matter jurisdiction over this action, pursuant to 28 U.S.C. § 1332, because the complaint presents a case where the amount-in-controversy exceeds \$75,000 and the controversy exists between citizens of different states.

25. Defendants consent to removal.

26. Removal is timely.

27. A copy of the docket and all process and pleadings which have been filed in the state court action, including the complaint, are attached hereto as **Exhibit A**.

28. Defendants will promptly file a notice of filing of notice of removal with Clerk of Court for Hamilton County, Ohio, as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendant White Holdings Trucking, LLC, by and through counsel, prays that this Court accept this notice of removal and that this Court assume jurisdiction over this action.

Respectfully submitted,

/s/ Tyler M. Jolley

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*Attorneys for Defendants White Holdings  
Trucking, LLC and Jeffery Byrd*

**CERTIFICATE OF SERVICE**

On this 6<sup>th</sup> day of September 2020, I certify that I served a true and accurate copy of the foregoing Notice of Removal by email to the following:

Walter W. Messenger  
75 Clairedan Drive, Suite E  
Powell, OH 43065  
wmessenger@immigrantlegalservice.com  
*Attorney for Plaintiffs*

/s/ Tyler M. Jolley

Tyler M. Jolley